

Treaty of Waitangi

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2. Statement from Te Kawerau a Maki.
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1. TREATY OF WAITANGI

The Treaty of Waitangi, signed in 1840, is the closest New Zealand has to a founding document and is still much debated today. The following versions of the Treaty are included here at the request of Te Taumata Runanga.

The Treaty itself was poorly translated into Maori at the time, so that the document in Maori that the Chiefs signed was much less sweeping in the powers it granted to the Crown than the English version.

However despite this the Treaty has come to symbolise a joint commitment between Maori and Pakeha to build a future for New Zealand together and a partnership between iwi and the Crown.

Several pieces of legislation require local government as well as central government to take into account the principles of the Treaty of Waitangi. The Waitakere City Council has embraced this particularly in entering into partnership agreements with iwi under the Resource Management Act and establishing Te Taumata Runanga as a standing committee of the Council.

Under Article 2 of the Treaty, iwi are assured of security in their rangatiratanga over their lands, villages and “possessions” – these possessions include forests, fisheries and resources. Clearly there are many examples through history of this article not being honoured. One key area of concern to Council and to iwi is in the degradation of fisheries, traditional food sources and natural resources.

The Resource Management Act recognises this issue and directs local authorities to recognise and provide for the particular role of iwi as “kaitiaki” or guardians of natural resources. Two iwi, Te Kawerau a Maki and Ngati Whatua, hold Tangata Whenua in Waitakere City. Their key resource management concerns, and what the Council is doing to address them, are set out in this chapter.

A separate chapter, “Maori community” looks at concerns beyond natural resource issues, including issues affecting non-iwi Maori groups.

“
... a joint commitment
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TE TIRITI O WAITANGI (Treaty of Waitangi)
[A Literal English Translation of the Maori Text]

Signed at Waitangi February 1840, and afterwards by about 500 chiefs.

Victoria, the Queen of England, in her kind (gracious) thoughtfulness to the chiefs and hapus of New Zealand, and her desire to preserve to them their chieftainship and their land, and that peace and quietness may be kept with them, because a great number of the people of her tribe have settled in this country, and (more) will come, has thought it right to send a chief (an officer) as one who will make a statement to (negotiate with) the Maori people of New Zealand. Let the Maori chiefs accept the governorship (kawanatanga) of the Queen over all parts of this country and islands. Now, the Queen desires to arrange the governorship lest evils should come to the Maori people and the Europeans who are living here without law. Now, the Queen has been pleased to send me, William Hobson, a Captain in the Royal Navy to be Governor for all places of New Zealand which are now given up or which shall be given up to the Queen. And she says to the chiefs of the Confederation of the hapus of New Zealand and the other chiefs, these are the laws spoken of.

This is the First

The chiefs of the Confederation, and all these chiefs who have not joined in that Confederation give up to the Queen of England for ever all the governorship (kawanatanga) of their lands.

This is the Second

The Queen of England agrees and consents (to give) to the chiefs, the hapus, and all the people of New Zealand the full chieftainship (rangatiratanga) of their lands, their villages, and all their possessions but the chiefs of the Confederation and all the other chiefs give to the Queen the purchasing of those pieces of land which the owner is willing to sell, subject to the arranging of payment which will be agreed to by them and the purchaser who will be appointed by the Queen for the purpose of buying for her.

This is the Third

This is the arrangement for the consent to the governorship of the Queen. The Queen will protect all the Maori people of New Zealand, and give them all the same rights as those of the people of England.

William Hobson

Consul and Lieutenant Governor

Now, we the chiefs of the Confederation of the hapus of New Zealand, here assembled at Waitangi, and we, the chiefs of New Zealand, see the meaning of these words and accept them, and we agree to all of them. Here we put our names and our marks.

THE TREATY OF WAITANGI

[English text of the Treaty]

Her Majesty Victoria Queen of the United Kingdom of Great Britain and Ireland regarding with Her Royal Favour the Native Chiefs and Tribes of New Zealand and anxious to protect their just Rights and Property and to secure to them the enjoyment of Peace and Good Order has deemed it necessary in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand and the rapid extension of Emigration both from Europe and Australia which is still in progress to constitute and appoint a functionary properly authorized to treat with the Aborigines of New Zealand for the recognition of Her Majesty's Sovereign authority over the whole or any part of those islands.

Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of the necessary Laws and Institutions alike to the native population and to Her subjects has been graciously pleased to empower and to authorize "me William Hobson a Captain" in Her Majesty's Royal Navy Consul and Lieutenant Governor of such parts of New Zealand as may be or hereafter shall be ceded to Her Majesty to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.

ARTICLE THE FIRST

The Chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess, over their respective Territories as the sole Sovereigns thereof.

ARTICLE THE SECOND

Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the individual Chiefs yield to Her Majesty the exclusive right of Pre-emption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

ARTICLE THE THIRD

In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her royal protection and imparts to them all the Rights and Privileges of British Subjects.

[Signed] W Hobson Lieutenant Governor

Now therefore We the Chiefs of the Confederation of the United Tribes of New Zealand being assembled in Congress at Victoria in Waitangi and We the Separate and Independent Chiefs of New Zealand claiming authority over the Tribes and Territories which are specified after our respective names, having been made fully to understand the Provisions of the foregoing Treaty, accept and enter into the same in the full spirit and meaning thereof in witness of which we have attached our signatures or marks at the places and the dates respectively specified

Done at Waitangi this Sixth day of February in the year of Our Lord one thousand eight hundred and forty

TIRITI O WAITANGI 1840 **[Māori text of the Treaty]**

Ko Wikitoria te Kuini o Ingarani i tana mahara atawai ki nga Rangatira me nga Hapu o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga me to ratou wenua, a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kua wakaaro ia he mea tika kia tukua mai tetahi Rangatira--hei kai wakarite ki nga Tangata maori o Nu Tirani--kia wakaaetia e nga Rangatira maori te Kawanatanga o te Kuini ki nga wahikatoa o te Wenua nei me nga Motu--na te mea hoki he tokomaha ke nga tangata o tona lwi Kua noho ki tenei wenua, a e haere mai nei.

Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga kia kaua ai nga kino e puta mai ki te tangata Maori ki te Pakeha e noho ture kore ana.

Na, kua pai te Kuini kia tukua a hau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo nga wahi katoa o Nu Tirani e tukua aiane, amoa atu ki te Kuini, e mea atu ana ia ki nga Rangatira o te wakaminenga o nga hapu o Nu Tirani me era Rangatira atu enei ture ka korerotia nei.

KO TE TUATAHI

Ko nga Rangatira o te wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu--te Kawanatanga katoa o ratou wenua

KO TE TUARUA

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga hapu--ki nga tangata katoa o Nu Tirani te tino rangatiratanga o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te Wenua--ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona.

KO TE TUATORU

Hei wakaritenga mai hoki tenei mo te wakaaetanga ki te Kawanatanga o te Kuini--Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.

[signed] William Hobson Consul & Lieutenant Governor

Na ko matou ko nga Rangatira o te Wakaminenga o nga hapu o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangatira o Nu Tirani ka kite nei i te ritenga o enei kupu, ka tangohia ka wakaaetia katoatia e matou, koia ka tohungia ai o matou ingoa o matou tohu.

Ka meatia tenei ki Waitangi i te ono o nga ra o Pepueri i te tau kotahi mano, e waru rau e wa te kau o to tatou Ariki

2. STATEMENT FROM TE KAWERAU A MAKI

Ko Puketotara te Maunga	Puketotara is the sacred Mountain
Ko Waitakere te awa	Waitakere is the River
Ko Te Au o Te Whenua te tangata	Te Au o Te Whenua is the chief
Ko Te Kawerau a Maki te iwi	Te Kawerau a Maki are the people

Maori throughout Aotearoa in expressing their relationship or identity to a place, will often do so in formal speechmaking by use of pepeha, or proverbial sayings. The above pepeha relates to Waitakere and its surrounding districts.

Te Kawerau a Maki are the tangata whenua of Waitakere and have held manawhenua in the district since first human occupation.

“In the produce of land and sea, Kawerau do not pay tribute to any chief, nor could they be commanded by any adjoining tribe or hapu to assist in any act whatsoever, nor could any chief go to any of the Kawerau fishing grounds without the express permission of the Kawerau people.”¹

The Kawerau a Maki people take their name from the son of the illustrious ancestor Maki, whose mana extended to the whole of the Auckland Isthmus and hence its Maori name, “Ta Maki Makau rau”, now more commonly spelt, “Tamaki Makaurau”.

Maki’s Great Grandson (referred to in the above proverb), Te Au o Te Whenua, came to control all the land between Muriwai and the Manukau Harbor, as well as other areas within Tamaki Makaurau. Taupaki, or the “Firmly bound peace” is a place near Tirikohua, a Pa, north of Te Henga. It was here that peace was made between our *tupuna* Te Au o Te whenua and Poutapuaka of Ngati Whatua. Poutapuaka was travelling south when he was stopped by Te Au o te whenua who enquired as to where Poutapuaka was going. He replied, “Ki Hikurangi”, “to Hikurangi (a place in west Auckland)”. Te Au o te whenua was suspicious of the

intentions of Poutapuaka and disallowed him to continue. Te Au o te whenua drew his mere (stone club) and cut a line into the ground and stated that Poutapuaka should return from here. Tensions were high, but peace was finally made when Poutapuaka realised that that he had not the strength to continue south. It was from this incident, that Te Hawiti was to receive his new name “Te Au o te whenua”, or “the current of the land” Taupaki became an Aukati, or a line, which one may not pass. It was through Te Au o Te Whenua, that Te Kawerau a Maki claimed and were awarded Certificate of Title to the Waitakere and other blocks in the Native Land Court hearings of the 1860’s.

Like all tribes throughout the country, Te Kawerau a Maki fought battles to retain and gain lands. Sometimes tribes would fight battles on lands other than their own. The following is one such battle that took place on Te Kawerau land in the Waitakere Ranges around Paruroa (Big Muddy Creek), between Ngati Whatua and Waiohua. However, as Te Kawerau a Maki were closely related to both iwi they did not participate in the battle, in which Ngati Whatua were victorious. The outcome of this battle was irrelevant to Te Kawerau a Maki, as neither protagonists held mana in this area. The mid-1820’s brought disaster to the inhabitants of the Waitakere and other areas within Tamaki Makaurau when they were decimated by Ngapuhi raiding parties armed with muskets. Te Kawerau a Maki fought Nga Puhī at Te Henga and Karekare but were overwhelmed by the superior force of the musket. This devastation led to a major depletion in tribal numbers and a period of exile in the Waikato until 1835.

In the mid-1830’s, the Tainui rangatira, Te Wherowhero established himself at Awhitu, in order to bring peace to the Tamaki region. Under his protection, Te Kawerau a Maki returned to Kakamatua on the Manukau coast, while Te Taou hapu of Ngati Whatua and Ngaoho established themselves at Karangahape Pa on Puponga Point. The Te Kawerau a Maki chief, Te Waatarauhi, gifted this land to Ngati Whatua. Te Kawerau a Maki re-established pa and kainga throughout West Auckland and other areas on the Waitemata Harbour and maintained occupancy of the Waiti kainga near Te Henga up until the mid 1900’s.

¹ John White, Turtons Land Deeds of the North Is., 1883.
Updated as at 1 September 2002
Updates@waitakere.govt.nz

Today Te Kawerau a Maki continue to exercise their responsibilities as *kaitiaki* within their tribal domains. Te Kawerau a Maki have long established partnerships with many Auckland Local Authorities including Waitakere City Council, Auckland Regional Council, Auckland City Council and North Shore City Council. The partnerships allow Te Kawerau A Maki to exercise and maintain *kaitiakitanga*². The *rahui* described in the case study at the end of this chapter is a prime example.

3. KEY ISSUES OF CONCERN TO TE KAWERAU A MAKI

Te Kawerau a Maki contributed to the development of the Council's 1995 District Plan, and highlighted the resource management issues they were concerned about at that time. These issues are set out in the following table, along with the Council's responses, through the District Plan and through other methods, to address those concerns, and any relevant monitoring information to assess whether these actions are effective.

² The Resource Management Act; Section 7(a); 1991
Updated as at 1 September 2002
Updates@ waitakere.govt.nz

IWI CONCERNS	COUNCIL RESPONSES	MONITORING RESULTS
Water		
That the mauri of natural waterways is protected.	Addressed through all of the issues below.	
That the food producing capacity of natural waterways is protected and enhanced, as is their life supporting capacity.	<p>District Plan controls aimed at improving the life supporting capacity of waterways include:</p> <ul style="list-style-type: none"> o Controls on earthworks (both the scale of works and the process for carrying them out) o Protection of streams, and of streamside vegetation for shading and water quality on the release of contaminants to water Through other methods including advice and its own actions the Council is also: o Encouraging streamside replanting o Installing stormwater ponds and wetlands to improve water quality o Encouraging businesses to adopt cleaner production methods & design to contain spills o Ensuring fish passage is provided for. 	<p>Silt runoff from earthworks remains a concern. Although controls are in place to ensure developers mitigate this e.g. through settling ponds only around 75% removal is achieved. Stock damage to waterways is a concern in the foothills, and waterways in the urban area are contaminated with stormwater runoff from roads and some sewage overflows. On the west coast, septic tanks are the main pollution source with E.Coli counts (a measure of faecal bacteria) reaching levels where warning signs need to be erected a significant number of times in the last 2 years, especially at Karekare and Piha. Fish counts indicate that there are still several species of native fish present in the city's urban waterways, indicating that diverse plant and invertebrate life is also present. However the main urban waterways are not a viable food source. (see <i>The State of our Water</i>)</p>
Te Kawerau a Maki advocates water conservation and efficient use of water.	EcoWater Solutions, the Council's water services business unit, is actively involved in water conservation initiatives which range from working with schools to reducing leaks in the water network.	Water use is stable at around 240 litres/person/day Leakage in the Council's water supply network has been reduced.
The iwi opposes the direct disposal of any waste into waterways and requires that waste pass through the soils before discharge.	Direct disposal by industry is rare; most waste enters waterways from stormwater, sewage overflows or septic tanks. Controls on new septic tanks/ onsite treatment systems are reducing the overflow of waste into waterways. The Council's own stormwater and wastewater network is being progressively improved. Planting alongside streams allows more stormwater to filter through the soil before reaching the streams.	New stormwater wetlands pass some of the City's stormwater through the soils. The upgrade to the Mangere Sewage Purification Works incorporates iwi concerns. The Council will have better information on stormwater and wastewater pollution once it has gone through the process of obtaining resource consents from the ARC.
The iwi supports active restoration programmes, including stream edge plantings.	The Council, community groups and private landowners have been active in replanting stream sides and controlling weeds throughout the City.	Currently around 70% of streams (by length) provide moderate or better habitat for native fish.
The iwi requires that spiritual and cultural concepts be recognised as key issues in water management.	Spiritual concerns, especially the particular repugnance of discharging human waste into water, are a feature of the Council's decision making. The advice of iwi representatives is regularly sought to assist in this.	The monitoring of the spiritual health of waterways is not yet undertaken in any formal way but this is a possibility for the future.
Coastal Marine Area		
Ensure protection of heritage sites.	Iwi representatives maintain a "silent file" of waahi tapu (sites of significance to iwi), and advise the Council on how best to protect iwi interests including the protection of significant sites.	The protection of iwi sites is monitored by iwi, rather than by the Council.

IWI CONCERNS	COUNCIL RESPONSES	MONITORING RESULTS
Protect water quality.	Council seeks to protect water quality in the marine water by controlling land users in the catchments above by a programme to start treating stormwater and sewage overflows (providing planted riparian buffer strips, restricting impermeable surfaces and earthworks, bush protection, controls on industry).	Monitoring results from the coastal estuaries and harbours are not good. Samples from the Henderson and Huruhuru Creeks (which are fed from a large urban catchment) found only four species present, all pollution tolerant.
Protect the quantity and availability of kaimoana (seafood).	Pollution from land-based sources is impacting significantly on the suitability of shellfish and other seafood for human consumption.	
Limit the disposal of waste from boats.	The Auckland Regional Council has introduced regulations prohibiting the disposal of waste from boats within 1km of shore.	
Manage any development and use of coastal space to avoid adverse effects on water quality and coastal character.	District Plan controls require coastal developments to meet very high standards in terms of avoiding or mitigating adverse effects. The development of concept plans for new development ensures adequate coastal buffer areas.	
Involve Te Kawerau a Maki trust in any changes which may increase access to areas on the coast with significant sites; ensure that spiritual and cultural concepts are recognised as key issues in managing this area.	Iwi representatives are involved in scrutiny of the Council's actions and of resource consent applications, and have the task of considering their effects including effects on spiritual values and on access to significant sites. Iwi are also involved in the development of concept plans and structure points.	
Te Kawerau a Maki supports active programmes to enhance the coastal area and the ecology of the Waitemata and Manukau Harbours.	Programmes underway include: Council programmes to enhance coastal reserves ; Programmes to manage pollution of streams (a key influence on pollution of the coast and of harbours); Support for beachcare groups and environmental groups involved in stream and harbour protection issues; Support for the upgrade of the Mangere Sewage Purification Works.	
Waste		
In selection of sites for waste water and solid waste treatment or disposal, cultural and spiritual values are not harmed.	Currently there is no deliberate disposal of wastewater or of solid waste within Waitakere City; wastewater is disposed of via the Mangere Sewage Treatment Plant and solid waste to landfills outside the City. The Council's solid waste treatment site, the Transfer Station at The Concourse, meets high environmental standards and has not been identified to date as a concern.	
The iwi opposes the generation, entry or disposal of toxic or hazardous waste within their tribal area.	The Council's cleaner production officer works with local businesses to reduce their use of toxic or hazardous substances and to ensure adequate storage and disposal. The Council provides a free service at the Transfer Station for households to drop off their hazardous waste and for this to be correctly disposed of; this facility is also used when hazardous waste is recovered from the tipping floor.	

IWI CONCERNS	COUNCIL RESPONSES	MONITORING RESULTS
The iwi advocates for the treatment of stormwater before it is discharged into waterways.	Significant new subdivisions are required to have onsite stormwater treatment. The Council is also progressively installing stormwater treatment, where possible, in the existing urban area.	Currently there are 34 stormwater treatment ponds/wetlands in the City. Stormwater is the most significant contributor of pollution to waterways, carrying heavy metals such as copper, lead and zinc, sediments, animal faeces and litter.
Land and Landscape		
Promote sustainable land management and the protection of the productive capacity of land.	The District Plan seeks to limit the effects of activities on soils by controlling building coverage. The conversion of land from rural to urban uses is a concern as the productive capacity of the land can be lost; this is taken into account in identifying areas suitable for future urban growth and in the urban intensification policy.	The Council's strategy to limit urban sprawl appears to be effective: around 80% of new dwellings are built within the existing urban area. (<i>see City Form and Design</i>)
Te Kawerau a Maki is concerned that native bush and fauna, and the cultural meaning, amenity and aesthetic values of the landscape, are protected.	The Council's Urban Growth Strategy is significant in that it discourages the conversion of rural and wilderness land to urban uses. The District Plan places strong restrictions on the clearing of bush, and aims to protect valued landscape and amenity features. Recently two extra staff members have joined the Council specifically to prosecute instances of illegal vegetation clearance.	The analysis of aerial photos from 1993, 1996 and 2000 have shown that a very high level of vegetation clearance, much of it illegal, has taken place in recent years. (<i>see The State of our Biodiversity</i>)
A particular concern is the protection of important sites and places associated with ancestors.	Iwi representatives are involved in the scrutiny the Council's actions and of resource consent applications, and have the task of considering their effects including effects important sites and places.	
The iwi has a pre-eminent concern, that a land-base and marae complex for Te Kawerau a Maki is re-established.	The Council is continuing discussions with Te Kawerau a Maki on this issue.	
Flora and Fauna		
The iwi is concerned about access to flora and fauna for cultural harvest and craft.	Cultural harvesting is recognised by the Council as a need and protocols are being developed to provide for it while also meeting the Council's obligations to protect native species.	
Eradicating exotic plants and animals that are damaging, destroying or competing with native species or their ecosystems	Weed control is a major item of expenditure for the Council. The Auckland Regional Council is also actively involved in weed and pest control in the Waitakere Ranges.	Weed control remains a major problem. However there are some successes in this area including the reduction of possum numbers in the Ranges following a poisoning and trapping campaign by the ARC.
Iwi participation in decisions on the introduction of new plants and animals to the country and ensuring that property rights (patents, licenses) are not given to native species in breach of Treaty rights.	These issues are in the domain of Central Government however the Council is willing to assist iwi in advocating for their concerns to be addressed.	

IWI CONCERNS	COUNCIL RESPONSES	MONITORING RESULTS
Te Kawerau a Maki Trust supports the protection of regenerating bush and regulations that limit native vegetation clearance during development.	The Council's District Plan identifies regenerating bush (kanuka, manuka and other "pioneer" species) as "significant indigenous vegetation" and affords these areas a high level of protection. However in some recent cases the Environment Court has been unwilling to uphold the Council's right to protect regenerating bush, or to limit the amount of clearance of regenerating bush during a development.	As stated above, considerable vegetation clearance has occurred in spite of the Council's strict regulatory approach.
Heritage Sites		
Te Kawerau a Maki Trust wishes to ensure protection of heritage without necessarily prohibiting all use and development	Iwi representatives are involved in the scrutiny the Council's actions and of resource consent applications, and have the task of considering their effects and of weighing up the advantages of use and development with the need to protect the area's heritage.	
The iwi wishes to ensure recognition of and provision for cultural and spiritual values in decision making.	Through its partnership with iwi and with Te Taumata Runanga, and through its relationship with the diverse communities of the City the Council is increasingly able to take the cultural and spiritual values of residents into account in its decision making, with particular emphasis on iwi spiritual values.	Relative to other local authorities, this Council has a strong commitment to partnerships, particularly with iwi, and to open decision making. (<i>see Democracy and Community Participation</i>)
The iwi wishes to have opportunities to manage, enhance and monitor heritage concerns relating to waahi tapu.	This is provided for as part of the Council's partnership agreement with Te Kawerau a Maki.	

4. STATEMENT FROM NGATI WHATUA

The following is a brief summary of the key components of Ngati Whatua history and relationships with the Crown and therefore the Council.

Ngati Whatua has exercised manawhenua (customary authority) in the Waitakere District and Auckland Isthmus for more than two and a half centuries.

Ngati Whatua chiefs signed the Treaty of Waitangi at Manukau in March 1840. Ngati Whatua manawhenua and rangatiratanga were recognised and guaranteed in the article 2 of the Treaty in exchange for ceding to the Crown, kawanatanga. A delegation of Ngati Whatua chiefs travelled to the Bay of Islands and invited Governor Hobson to take up his residence and that of the Crown in Tamaki offering him land if he were to do so. Hobson accepted and in September of 1840 Ngati Whatua exchanged 3000 acres of land with the Crown. The land so exchanged makes up the modern day suburbs of Freemans Bay, Ponsonby, Herne Bay, Mt Eden, Parnell and the CBD of Auckland City.

Ngati Whatua accepted a nominal amount of goods and sovereigns for this land, it was not seen by them as a single, irreversible, commercial transaction, but as a token, a koha, of a new found union. The payment was the union. In exchange for land and food for the new settlers, Ngati Whatua also expected to receive military protection and instruction in the arts and commerce.

The Resource Management Act 1991 under which Council functions from devolved powers from central government places specific obligations on Council to recognise the principles of the Treaty of Waitangi (see section 8, RMA91). Council must also have regard for kaitiakitanga (see section 7a, RMA91). Kaitiakitanga is a Maori resource management principle and is an integral component of the exercise of rangatiratanga. Implicit in kaitiakitanga is the notion of reciprocity where one must manage a resource prudently so as to provide for those that follow.

Council in recognition of Ngati Whatua as manawhenua updated the partnership agreement with Ngati Whatua representatives in 2001. The development of this relationship enables Ngati Whatua to exercise its rangatiratanga and kaitiakitanga over the resources in the Waitakere City in partnership with Council. These resources include the material, non-material and human. Another component of rangatiratanga is the exercise of manaakitanga (the customary duty to care for those within your tribal rohe). Manaakitanga therefore can place significant strains on Ngati Whatua due to scale. Ngati Whatua through their treaty relationship with Council is able to exercise manaakitanga more fully and assist with improving the well-being of this community whose traditional home fires (ahi kaa) are elsewhere.

5. KEY ISSUES OF CONCERN TO NGATI WHATUA

Te Hao o Ngati Whatua also contributed to the development of the Council's 1995 District Plan. The resource management issues that Ngati Whatua were concerned about are set in the following table, along with the Council's responses and any relevant monitoring to assess whether these responses are effective.

IWI CONCERNS	COUNCIL RESPONSES	MONITORING RESULTS
A fundamental concern that resource management systems run by Central and local government run counter to holistic views of the environment and do not provide for the spiritual as well as physical dimensions of the environment. People have duties and obligations to protect the environment which go beyond the approach taken in the legislation.		
Concerns about Land (whenua)		
That the removal of bush in an unsustainable manner be prevented.	District Plan controls which restrict bush clearance. Restoration projects using local eco-sourced plants.	There has been a very significant loss of bush due to both legal and illegal clearances. There has also been a significant increase in restored areas but these take many years to mature.
Erosion as a result of bush clearance is a major concern.	District Plan controls on bush clearance, especially in riparian areas and in the headwaters of streams. Riparian restoration projects.	Problems with erosion are likely to be worsening with the widespread illegal clearances. However there are significant riparian planting projects happening both on public and private land.
A precautionary approach to the planting of exotics such as pines in place of native bush.	The Council uses eco-sourced native trees by preference in its own plantings. A resource consent would be needed to clear bush and plant exotics.	Clearance of bush for the purpose of planting exotic species such as pines is not widespread – most clearance is in favour of grass, either for grazing or as open space.
The effects of stormwater runoff need to be managed with great caution.	District Plan controls limit the creation of stormwater impacts from new development. The Council's stormwater strategy sets the priorities for addressing the city's existing stormwater issues.	Some pilot projects are in place to improve stormwater quality and flow, particularly in new subdivisions. Existing developments, especially roads, still cause major problems.
The effects of septic tanks need to be managed.	New homes need to connect to the sewerage system if they can, or to have a high quality onsite treatment system.	Although new treatment systems are of a high quality, the impacts of existing septic tanks still reduce water quality significantly, especially in the Piha and Karekare lagoons.
The effects of landfills need to be managed.	Closed landfills are managed by the Council to minimise leakage of polluted gasses or water, and to stabilise the land. The City's waste is now disposed of outside the Waitakere area.	The Council has liability for 50 former landfill sites, of which five will have management plans in place by June 2002. 3 management plans (at Kay Road, Taupari Strand and Archibald Park) were in place at 30 June 2001. There are another 79 known landfill sites in the City for which the Council is not liable.
The effects of noxious plants and pests need to be controlled.	The Council is actively involved in weed control, though less involved in pest control.	A recent success is the ARC project to control possums in the Waitakere ranges through poisoning followed up by trapping. However weeds and pests continue to be a major threat to the City's native species.
Construction of buildings in areas of instability needs to be undertaken with great caution.	Stability issues need to be checked and a stable building site established before a resource consent and/or building consent can be issued.	
Retain and enhance natural native forests, and replant native vegetation along waterways.	This has been a major focus for the Council, both through regulation protecting existing vegetation and through restoration projects.	Further work is needed to establish the extent of clearance of native bush (both legal and illegal) along waterways. In some areas up to 30% of the vegetation has been lost in the seven-year period between 1993 & 2000. There have been significant restoration projects along the City's waterways.

IWI CONCERNS	COUNCIL RESPONSES	MONITORING RESULTS
Water – Water must be managed holistically and nurtured as a living entity		
Sewage and stormwater discharges to waterways are of concern.	The Council has comprehensively documented these discharges as part of the process of applying to the ARC for resource consents. This process will also involve working to mitigate the environmental effects of discharges.	A monitoring programme is being set up to document the impact of planned changes to the way the City manages stormwater. There are now very few significant wastewater discharges to the Waitakere City environment (none in 1999/2000 and 2000/01).
Industrial and urban discharges and runoff are a concern.	The council controls specific industrial discharges, but has fewer options available to control general urban runoff.	General urban runoff is now the main pollutant of the City's waterways.
Leachate from landfills	As above	As above.
Sedimentation and erosion	Earthworks are a significant contributor to the amount of soil entering waterways, and the Council has introduced control on earthworks to minimise erosion at this time. Changes to land use (e.g. from bush to farming, and from farming to urban) also affect erosion rates.	The Council has done little monitoring of compliance with its earthworks conditions, although this is changing now and more information should become available. Major new developments in the NorthWest area of the City are being planned to minimise environmental effects, including sedimentation and erosion.
Dumping of animal carcasses near waterways	This would be an illegal dumping activity and any reports of it would be followed up by the Council's Environmental Health Officers.	
Mixing of waters from different sources, which is spiritually offensive	Waikato water will be pumped to the Auckland isthmus via the new pipeline and will be discharged to the Manukau Harbour following treatment at Mangere. Waitakere City Council has negotiated with Watercare that Waikato water will not be supplied to Waitakere City customers except as a last resort.	
Noxious weeds in waterways	This is a major problem, with mist weed, willows and other noxious weeds firmly established in Waitakere's waterways. Noxious fish are increasingly an issue also. The Council has an ongoing programme of willow control in the Te Henga swamp and throughout the urban area. Re-establishing native trees which shade streams is the best long term option for controlling smaller noxious weeds in waterways.	Around 70% of surveyed streams provide moderate or better habitat for native fish. Lack of shading and the presence of weeds are major factors in the streams which do not provide adequate habitat.
The need to reintroduce and retain natural wetlands	The Council protects the City's remaining wetlands and estuaries via the District Plan. New artificial wetlands are being created across the City as a method of stormwater control.	There are few clear cases of clearance of wetland plants and mangroves though these plants have died off in some areas and colonised new areas. From July 1998 to 2001, more than 36 new stormwater ponds and wetlands have been put in place in the urban area.
Wastes derived from the land should be returned to the land.	The Council encourages households and businesses to dispose of waste carefully. However much waste disposed of in sewage would be more appropriately disposed of on land. The redesign of the Mangere Sewage Purification Works by Watercare Services does incorporate some elements of Maori waste treatment philosophy in its design.	

IWI CONCERNS	COUNCIL RESPONSES	MONITORING RESULTS
<p>Air</p> <p>Ngati whatua have concerns about the discharge of wastes into the air</p>	<p>Industrial discharges to air and waste incineration require permits from the Council. Backyard burning of rubbish is not permitted.</p>	<p>The City's main sources of air pollution are vehicles and, in winter, home fires. These contribute to levels of fine particulates which at times exceed health standards.</p>
<p>Waahi tapu</p> <p>Ngati whatua do not wish to alienate any waahi tapu sites within the City and wish to pursue their full responsibilities as kaitiaki of these sites.</p>	<p>Areas of special significance to Ngati Whatua are recorded in the Council's District Plan. As part of the partnership relationship with the Council, Ngati Whatua representatives have the task of scrutinising resource consent applications and highlighting any issues of concern, including identifying any significant sites (waahi tapu) which could be affected.</p>	

Treaty of Waitangi

CASE STUDY

KAREKARE SHELLFISH RAHUI

Visitors to Karekare beach are still observing a longstanding ban on the taking of shellfish from the area. The ban was initiated by local residents and is still monitored by them. However, the key to the success of this ban has been the strong support by Te Kawerau a Maki as *tangata whenua* of this area.

The residents were concerned that some visitors to the area were damaging and removing the shellfish and marine life that grows on the beach's rocky shoreline. They spoke of people arriving in cars and stripping the rocks with heavy wires, leaving the rocks in a damaged state from which they could take years to recover.

Karekare residents approached their local community board, which resolved to ask the Council to impose a ban on the collection of shellfish from Karekare beach. A search of the legal situation regarding shellfish showed that Council has in fact no power whatsoever to impose such a ban. The taking of shellfish is regulated by the Ministry of Fisheries, damage to rocky shores is the responsibility of the Department of Conservation and the Auckland Regional Council, and there was also a legal obligation to recognise the *kaitiaki* of the area who have a specific guardianship role – in this case Te Kawerau a Maki.

With all these groups working in isolation from each other, the Council saw a role for itself as a mediator and facilitator of the whole process. Each of the groups involved was in favour of a ban. But there were many issues to be resolved first. The Te Kawerau a Maki *iwi* were as concerned as the local residents about

damage to the beach's marine life. They were saddened, however, after a history of *iwi* having their actions as *kaitiaki* in, for example, banning the taking of shellfish from an area, ignored by the Ministry of Fisheries and flouted by the public. The opportunity to have their own actions as *kaitiaki* backed up by legal force and policed by local people empowered to impose fines on people breaking the ban was greeted enthusiastically.

The Minister of Fisheries officially imposed a ban on the taking of shellfish from Karekare on 11 May 1993. Waitakere City Council had provided signs clearly stating the ban and had printed a leaflet explaining it in several languages. That morning, at dawn, the ancient protocols were enacted by the people of Te Kawerau a Maki and a *rahui* (or ban) was imposed on shellfish gathering at Karekare. About 150 people attended the ceremony, and the magic of the occasion was clear to every one.

The ban has now been in force for eight years. During that time the shellfish of the beach have recovered significantly. During the first year of the *rahui*, a number of people were observed breaking it. All of them responded positively to an explanation about why they should return the shellfish they had collected to the sea. Nobody has been officially charged or fined, and in recent years nobody has been observed infringing the *rahui*. Visitors to the area now seem to know about and understand the *rahui*, and many of them make a point of visiting the rocks to observe the fascinating marine life that is reappearing there.

